

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE NEW ENGLAND COMPOUNDING
PHARMACY, INC. PRODUCTS
LIABILITY LITIGATION

MDL No. 2419
Dkt. No. 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:

All Actions

**JOINTLY PROPOSED AGENDA
FOR THE FEBRUARY 17, 2015 STATUS CONFERENCE**

The Plaintiffs' Steering Committee, Official Creditors' Committee, and Trustee jointly propose the following agenda for the February 17, 2015 status conference. All defendants whose counsel filed notices of appearance in the MDL have been given an opportunity to comment on this proposed agenda.

A. Motions for which oral argument is requested.¹

1. Liberty Industries, Inc.'s Motion to Strike the Amended Declaration of Philip J. Austin, Ph.D. [Dkt. 1661].
 - a. PSC Opposition to Liberty Industries, Inc.'s Motion to Strike the Amended Declaration of Philip J. Austin, Ph.D and Declaration of Thomas M. Sobol in support. [Dkt. 1669, 1670]

B. Report to the Court.

1. Status of mediation efforts
2. Status of insurance declaratory actions:
 - a. *Certain Underwriters at Lloyd's, London v. Ameridose et al.*, 1:13-cv-12609-FDS; *Ironshore Specialty Ins. Co. v. Ameridose et al.*, 1:13-cv-13000-FDS
 - b. *Great American E&S Ins. Co. v. Liberty Industries, Inc.*, 3:14-cv-00499-VLB

¹ These motions are also identified in the PSC's Motion to Schedule Oral Argument [Dkt. 1684]. Judge Boal ordered oral argument for February 17, 2015, at 11:30 a.m., on PSC's Motion for Clarification Regarding Plaintiff Profile Form Releases [Dkt. 1671] and PSC's Motion to Compel the St. Thomas Entities to Respond to Certain Document Requests [Dkt. 1690].

- i. Great American Motion for Summary Judgment [*Great American* Dkt. 22, 23, 25]
 - ii. Liberty's Opposition to Motion for Summary Judgment [*Great American* Dkt. 34, 35]
- 3. Status of discovery
 - a. Notices of depositions [Dkt. 1634, others forthcoming]
 - b. In camera review of St. Thomas entities Trust Agreement [per Dkt.1650]
 - i. PSC's Objections to Magistrate Judge Boal's order Denying Its Motion to Compel Production of Insurance Agreements [Dkt. 1618]
 - ii. Order on PSC's Motion to Compel Production of Insurance Agreements [Dkt. 1590]
 - c. Pending motions before Judge Boal:
 - i. PSC's Motion to Compel the St. Thomas Entities to Respond to Certain Document Requests [Dkt. 1664]
 - ii. PSC's Motion for Clarification Regarding Plaintiff Profile Form Releases and Responses [Dkt. 1671]
 - iii. PSC's Motion to Compel St. Thomas Entities to Respond to Certain Interrogatories and Corrected Declaration of Benjamin A. Gastel [Dkts. 1549, 1550, 1551, 1555]
- 4. Status of litigation track
 - a. PSC Status Report [forthcoming]
 - b. PSC Letter to Judges Zobel and Boal regarding Judge Nieman [forthcoming]
- 5. Status of bankruptcy
- 6. Status of appeals
- 7. Schedule for future status conferences
 - a. March 25, 2015, at 2:00 p.m. (Zobel)
 - b. April 29, 2015, at 11:30 a.m. (Boal); 2:00 p.m. (Zobel)

C. Fully-briefed motions.

8. Liberty's Motion for Reconsideration on Summary Judgment [Dkt. 1619] (*argued January 14, 2015*)
 - a. PSC's Opposition [Dkt. 1627]
9. Motions to dismiss in *Luna-Wynstock v. Ameridose*, 1:14-cv-12884 (*stayed by order of the Court*)
 - a. Encino Outpatient Surgery Center, Inc. Motion to Dismiss for Lack of Jurisdiction and Insufficient Service of Process [*Luna-Wynstock* Dkt. 22]
 - i. Plaintiffs' Opposition [*Luna-Wynstock* Dkt. 30]
 - ii. Encino Reply [*Luna-Wynstock* Dkt. 33]
 - iii. Ameridose Joinder to Plaintiffs' Supplemental Opposition [*Luna-Wynstock* Dkt. 40]
 - iv. Plaintiffs' Sur-Reply [*Luna-Wynstock* Dkt. 41]
 - b. Glaser Motion to Dismiss [*Luna-Wynstock* Dkts. 27, 28, 29]
 - i. Plaintiffs' Opposition [*Luna-Wynstock* Dkt. 34]
 - ii. Glaser Reply [*Luna-Wynstock* Dkt. 36]
 - iii. Plaintiffs' Sur-Reply [*Luna-Wynstock* Dkt. 37]
 - iv. Ameridose Joinder to Plaintiffs' Supplemental Opposition [*Luna-Wynstock* Dkt. 40]
10. Plaintiffs' motions for consolidation [*Montee v. Ameridose*, Dkt. 37, 13-cv-12657; *Carter v. Ameridose*, Dkt. 27, 13-cv-12187; *Patel v. Ameridose*, Dkt. 25, 13-cv-12061; *Seiber v. Ameridose*, Dkt. 28, 13-cv-11868]
 - a. Defendants oppositions to consolidation [*Carter* Dkt. 28, *Patel* Dkt. 26, *Seiber* Dkt. 29]

D. Briefing in progress.

11. Dispositive Motions:
 - a. Box Hill Motion to Dismiss [Dkt. 1639]
 - b. Cincinnati Pain Management Consultants Motion to Dismiss [Dkt. 1013, 1014]
 - i. Plaintiffs' Opposition [Dkt. 1493]

Dated: February 13, 2015

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Kristen A. Johnson, hereby certify that I caused a copy of the above Jointly Proposed Agenda for the February 17, 2015 Status Conference to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: February 13, 2015

/s/ **Kristen A. Johnson**

Kristen A. Johnson, BBO # 667261